IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11428 of 2002
with
SPECIAL CIVIL APPLICATION No 11439 of 2002
with
SPEIAL CIVIL APPLICATION No.11440 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PATEL JAYANTIBHAI VIRABHAI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 11428 of 2002
MR TS NANAVATI for Petitioner No. 1
Ms. Manisha Lavkumar, AGP for Respondent No. 1-2
..... for Respondent No. 3

2. Special Civil Application No. 11439 of 2002
MR TS NANAVATI for Petitioner No. 1
Ms. Manisha Lavkumar,AGP for Respondent No. 1

3. Special Civil Application No. 11440 of 2002
MR TS NANAVATI for Petitioner No. 1
Ms. Manisha Shah, AGP for Respondent No. 1- 3.

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 11/12/2002

ORAL JUDGEMENT

Rule. Ms. Manisha Lavkumar, learned A.G.P. appears and waives service of rule on behalf of the respondents.

In view of the facts and circumstances of the case, the petitions are taken up for final hearing today.

2. Patel Jayantibhai, Patel Shardaben Ashoklal(daughter of Virabhai Patel) and Patel Pankajbhai are the three siblings who have filed these petitions for a direction to the District Education Officer, Mehsana, and the Principal, Shri Laxmidevi Shreyas Vidyalaya Tundav and Patel Virabhai Magandas Ucchtar Madhyamik Shala.Tundav, in Unjha Taluka of Mehsana District to carry out the correction in their respective names, more particularly, to carry out the correction in their father's name because their father Virchandbhai Maganlal has got his name changed to Patel Virabhai Maganlal, which change has been notified through the Gujarat Government Gazette dated 13-12-2001, page 822. The petitioners have also got the necessary change made in their respective names reflected in the same Government Gazette on the same page. The petitioners have also obtained their passports wherein their father's name is mentioned as Patel Virabhai Maganlal. However, when the petitioners approahed the school authorities as well as the District Education Officer- the respondents nos.2 and 3 herein, the petitioners were informed that once the petitioners left the school, the authorities had no power to make any changes in the school records, and therefore, the petitioners have approached this Court for appropriate directions to the aforesaid authorities.

As far as Mr. Patel Pankajbhai (the petitioner in Special Civil Application no.11440/2002) is concerned, he has also sought change in his birthdate as recorded in the School Leaving Certificate (Annexure" I") from 1-6-1963 to 1-6-1961 which is the date recorded in the birth certificate produced at Annexure " F" to the petition.

3. Learned Counsel for the petitioners has while relying on the decision dated 30-4-1976 in Special C.A. no.1783/1975 (Annexure "G" in Spl.C.A. no.11428/2002),

submitted that the authorities do have the power to make corrections in the school record even if the pupil has actually left the school. There is no absolute embargo against effecting any such change, but the only requirement is that the procedure contained in Appendix 13 to the Grant-in-Aid Code has to be followed before making any such change.

4. In response to the notice, Ms. Manisha Lavkumar appears for the respondents nos.1 and 2 and submits that if the petitioners wanted any change to be effected in the school record so as to be reflected in the School Leaving Certificates, the petitioners ought to have got such changes made before the petitioners left the school.

5. In Special Civil Application no.1783/1975, this Court had considered this very particular controversy and held that:

" No change in the entries in the school record shall be effected even in respect of a pupil who has actually left the school without following procedure laid down in Appendix 13. The said instructions do permit a change in the entries of the school record even if a pupil has left the school but this should be effected after following the procedure indicated in Appendix 13. This interpretation is clear if regulation (6) is read as a whole ... ... It can never be the intention of the Government in giving the said instruction to provide a complete prohibition relating to a change in the entries in the school register in respect of a pupil who has left the school. The literal reading of the instructions does not carry out real intention of the framers of the Grant in Aid Code and would defeat the very purpose for which the instructions and provisions are made. If all instructions are read together, it is clear that there is no complete ban to change the entries in the school register in respect of a pupil who has actually left the school but this can be effected after following the proper procedure contained in Appendix 13."

The aforesaid decision of this Court has been followed by this Court in Spl. Civil Application no.1943 of 1996 decided on 25-4-1996 and also in Spl.Civil Application no.1741 of 1993 decided on 10-1-1994.

6. Having regard to the aforesaid decisions, the reply dated 8-8-2002 given by respondent no.3 and the D.E.O's communication dated 5-1-2002 will have to be quashed and set aside as illegal and the respondents nos.2 and 3 are directed to consider the petitioners'

application for changing their names as per the changes notified in the Gujarat Government Gazette, Part II, dated 13-12-2001, page 822, in the light of the aforesaid decisions of this Court. This direction is common for all the three petitions.

As far as Spl.Civil Application no.11440/2002 is concerned, which is filed by Patel Pankajbhai Virabhai, the petitioner's application for correction of the birth date shall also be considered by respondents nos.2 and 3 in the light of the aforesaid decisions of this Court.

The aforesaid directions shall be carried out within one month from the date of receipt of the writ of this Court or a certified copy of this order, whichever is earlier.

Rule is made absolute to the aforesaid extent only with no orders as to costs. Direct service is permitted.

(M.S.Shah,J.)

stanley-mss.